

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

GARY SMITH,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. CIV-20-1310-D
	)	
RICK WHITTEN, INTERIM	)	
WARDEN,	)	
	)	
Respondent.	)	

**ORDER**

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin on January 25, 2021. Judge Erwin recommends the denial of Petitioner's application for leave to proceed *in forma pauperis* (IFP) because Petitioner has sufficient funds to pay the \$5.00 filing fee for his Petition. Within the time period for a written objection, Petitioner has paid the required \$5.00 fee. Accordingly, the Court finds that Petitioner's application to proceed IFP is moot.

**IT IS THEREFORE ORDERED** that the Report and Recommendation [Doc. No. 9] is **ADOPTED**, and Petitioner's IFP application [Doc. No. 7] is **DENIED**.

**IT IS FURTHER ORDERED** that this matter is re-referred to Judge Erwin for further proceedings consistent with the initial case referral.

**IT IS SO ORDERED** this 12<sup>th</sup> day of February, 2021.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge